

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Reyes Analyst: Roger Lackey Bill Number: AB 1977

Related Bills: None Telephone: 845-3627 Introduced Date: 02-18-2000

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Value Added Agriculture Land Use Economic (VALUE) Zone

### SUMMARY

Under the Government Code, this bill would require the Trade and Commerce Agency (TCA) to designate, upon application of an eligible city, county, or city and county, value added agriculture land use economic (VALUE) zones .

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow qualified taxpayers in a VALUE zone to claim a sales or use tax credit and a business expense deduction and to carry over 100% of their net operating losses (NOLs) for a period of 15 years.

### EFFECTIVE DATE

This bill would be effective January 1, 2001. The tax incentives would be operative for taxable and income years beginning on or after January 1, 2001, and before January 1, 2013.

### PROGRAM HISTORY/BACKGROUND

California has four types of economic development areas that have similar tax incentives:

- ⌚ Enterprise Zones,
- ⌚ Local Agency Military Base Recovery Areas (LAMBRA),
- ⌚ Targeted Tax Area (TTA), and
- ⌚ Manufacturing Enhancement Areas (MEA)

The following table shows the incentives available to each of the economic development areas.

Types of Incentives	EZ	LAMBRA	TTA	MEA
Sales or Use Tax Credit	X	X	X	
Hiring Credit	X	X	X	X
Employee Wage Credit	X			
Business Expense Deduction	X	X	X	
Net Interest Deduction	X			
Net Operating Loss	X	X	X	

### Board Position:

\_\_\_\_ S      \_\_\_\_ NA      \_\_\_\_ NP  
\_\_\_\_ SA      \_\_\_\_ O      \_\_\_\_ NAR  
\_\_\_\_ N      \_\_\_\_ OUA      \_\_\_\_ X PENDING

### Department Director

### Date

Alan Hunter for GHG

4/7/00

#### SPECIFIC FINDINGS

**Existing federal law** specifies empowerment zones and enterprise communities to provide economic revitalization of distressed urban and rural areas. The Secretary of Housing and Urban Development and the Secretary of Agriculture designated nine empowerment zones and 95 enterprise communities from areas nominated by state and local governments (one enterprise community in Imperial County and one enterprise community in Watsonville). In addition, the Secretary designated two supplemental enterprise zones (one in Los Angeles) and four enhanced enterprise communities (one in Oakland).

Qualified zone businesses operating in federal empowerment zones and enterprise communities are eligible to finance property with exempt facility private activity bonds. This exempt bond is the only tax incentive available to businesses operating in enterprise communities. Two additional tax incentives are available in empowerment zones: qualified empowerment zone businesses are allowed an additional \$20,000 depreciation expense deduction, and employers are entitled to a 20% tax credit for the first \$15,000 of wages paid to certain empowerment zone employees.

State or local governments in which empowerment zones and enterprise communities are designated are eligible to receive block grants for social services and economic development block grants for use in accordance with the strategic plan submitted by the state or local government in the designation nomination process.

The state or local governments in which supplemental empowerment zones and enhanced enterprise communities are designated receive economic development grants and social services grants. Businesses that operate in these areas receive no special tax benefits.

**Under the Government Code, existing state law** provides for the designation of enterprise zones, Local Agency Military Base Recovery Areas (LAMBRA), a Targeted Tax Area (TTA), and two Manufacturing Enhancement Areas (MEA). Using specified criteria, the TCA designates these economic development areas from the applications received from the local governing bodies. Enterprise zones are designated for 15 years (except enterprise zones meeting certain criteria may be extended to 20 years). Eight LAMBRA designations are authorized, at least one from each of five regions (as specified) of the state. Currently, TCA has designated three of the eight LAMBRA's, and two other areas have received conditional designation. Each LAMBRA designation is binding for eight years. The TTA was designated November 1, 1998, and the MEAs were designated October 1, 1998. Both the TTA and MEAs are binding for 15 years beginning January 1, 1998.

**Under the Revenue and Taxation Code, existing state law** provides special tax incentives for taxpayers conducting business activities within economic development areas. These incentives include a sales or use tax credit, hiring credit, business expense deduction, and special net operating loss treatment. Two additional incentives include net interest deduction for businesses that make loans to businesses within the enterprise zones and a tax credit for employees working in an enterprise zone.

**This bill** would authorize a new type of economic development area called a "value added agricultural land use economic (VALUE) zone." This bill would specify that TCA could designate only a city, county, or city and county that meets certain criteria regarding the agricultural industry, unemployment rate, and poverty levels. A designation made by the TCA would be binding for a period of 12 years from the date of the original designation.

**This bill** would allow a credit for taxpayers in a VALUE zone in an amount equal to the sales or use taxes paid on the purchase of qualified property purchased for exclusive use in the zone. The amount of the credit would not be limited to the tax attributable to zone income. Qualified property would be defined as machinery, machinery parts, and equipment purchased for exclusive use within the VZ. The annual maximum aggregate value of property that would be eligible for the zone sales or use tax credit would be \$1 million.

For purposes of the sales or use tax credit, "taxpayer" means a new business or expansion of an existing business, located within a VALUE zone, that manufactures agriculture value added products falling within sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System. These NAICS codes specifically cover the following industries: crop production; animal production; forestry and logging; fishing, hunting, and trapping; support activities for agriculture and forestry; food manufacturing; beverage and tobacco production; textile mills; textile production mills; apparel manufacturing; leather and allied manufacturing; wood products manufacturing; paper manufacturing; printing and related support activities; petroleum and coal production; chemical manufacturing; plastics and rubber products manufacturing; non-metallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; machinery manufacturing; computer and electronic product manufacturing; electrical equipment, appliance and computer manufacturing; transportation equipment manufacturing; furniture and related products manufacturing; miscellaneous manufacturing; research and development in the physical, engineering, and life sciences.

**This bill** would allow a "qualified taxpayer" to elect to deduct as a business expense a specified amount of the cost of qualified property purchased for exclusive use in the zone. The deduction would be allowed in the taxable year in which the taxpayer places the qualified property in service. The election would be made on the original return. The bill would treat the amount of the deduction as an amount not chargeable to capital account, thereby requiring a reduction in the basis of the property by the amount of the deduction. The maximum deduction for all qualified property would be the lesser of (a) 40% of the cost or (b) the following:

If the property was placed in service in:

Taxable or income year of designation	\$100,000
1 <sup>st</sup> taxable or income year of designation	\$100,000
2 <sup>nd</sup> taxable or income year of designation	\$ 75,000
3 <sup>rd</sup> taxable or income year of designation	\$ 75,000
Each taxable year thereafter	\$ 50,000

For purposes of the business expense deduction, "qualified taxpayer" is defined as a person or entity engaged in a new business or expansion of an existing business within a VALUE zone that is engaged in those lines of business described in specified NAICS sectors.

**This bill** would provide that a "qualified taxpayer" (person or entity engaged in the conduct of a new business or the expansion of an existing business within a VZ) may elect to carry over 100% of the zone net operating losses (NOLs) to deduct from zone income of future years. The zone NOL would be determined by computing the business loss then applying a percentage (apportioning) to calculate the zone portion of the loss. The zone NOL would be a carryover to each of the 15 taxable or income years following the loss.

#### Policy Considerations

Zones created by this bill are intended for agricultural areas. In addition, the bill's stated purpose is to revive local economies in rural areas, to lower unemployment rates, and to give agriculture-related, value added manufacturers incentives to locate in these areas. However, many of the sector references from the North American Industry Classification System (NAICS) include business activities unrelated to agriculture products.

This bill would incorporate future changes to the NAICS Manual automatically since the bill does not specify the "edition" date of this publication. As a result, unintended industries or taxpayers that could be subsequently included or deleted from the benefits of this bill without further legislative action.

The bill would permit the sales or use tax credit to be applied against taxes on all income. Other incentive areas such as enterprise zones limit the sales or use tax credit to that portion of the taxpayer's net tax on income attributable to the business conducted within the enterprise zone.

The author's staff requested draft amendments to provide limitations comparable to limitations applicable to enterprise zone tax incentives. Amendments 3 and 10 would limit the sales and use tax zone credit to tax on income attributable to the zone.

As requested by the author's staff, the attached amendments would provide the qualifying zone taxpayers with a hiring credit and an employee wage credit (in addition to the sales and use tax credit, the business expense deduction, and the NOL deduction provided in the bill). In addition, the amendments would provide the TCA the same authority as it has in designating, expanding, and dedesignating other economic zones. At the author's request, Amendments 1, 2, 4, and 11 are provided.

#### Implementation Considerations

The sales or use tax credit defines taxpayer as a business that manufactures "agriculture value added products," but that term is not defined and may create confusion. Also, the requirement to manufacture "agriculture value added products" is not applicable to the other tax incentives provided by the bill for taxpayers in a VALUE zone. Pursuant to the request of the author's staff, the amendments to the sales or use tax credit have deleted this requirement.

The term "qualified taxpayer" or "taxpayer" is not used consistently throughout the bill. The author's staff has requested amendments to provide zone tax incentives to those taxpayers engaged in a trade or business within a zone and that are engaged in those lines of business described in sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the NAICS. Amendments 3, 6, 7, 9, 10, 13, and 15 would make the definition of "qualified taxpayer" consistent in the bill's various incentive provisions.

For purposes of the sales and use tax credit, this bill would define "qualified property" as machinery, machinery parts, and equipment purchased for exclusive use within the zone. Amendments 3 and 10 would clarify the term "qualified property" and clarify that the property must be purchased and placed in service and used exclusively in the zone.

For purposes of the business expense deduction, this bill would provide that "Section 17267.7 property," among other things, means property that is purchased and placed in service for exclusive use in an existing trade or business conducted within a zone. However, a "qualified taxpayer" is defined as a person or entity engaged in a "new business" or an "expansion of an existing business." The terms "new business" and "expansion of an existing business" are ambiguous and undefined. Upon discussion with the author's office, the author's staff requested amendments to delete these requirements and limit incentives to taxpayers engaged in a trade or business in a zone. The attached amendments reflect the author's intent.

The sales and use tax credit provision contains a dollar limitation based on the aggregate "value" of the qualified property, which would require that a determination of value be made by the taxpayer and potentially by the department at a later date. Amendments 3 and 10 delete the concept of "value" for the limitation and revise this limitation to be a maximum annual aggregate cost.

The department would be required to retain the credit carryover, for the sales and use tax credit, on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limit since experience shows credits are typically used within eight years of being earned.

Once the implementation considerations are resolved, this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

#### Technical Considerations

The business expense deduction language under the PITL, Section 17267.7, states that it would be operative January 1, 2000. Since the zones could not be designated until 2001 and the remainder of this bill is operative January 1, 2001, Amendment 5 would resolve the timing conflict by providing consistent operative dates.

The business expense deduction language under the B&CTL, Section 24356.9, does not contain introductory operative date language. Amendment 12 would add that the section would apply "(a) For each income year beginning on or after January 1, 2001, and before January 1, 2013, a qualified taxpayer..." to help clarify when the benefit is available to taxpayers.

The business expense deduction language under the PITL also erroneously refers to "targeted tax area." Amendment 8 would correct the reference to be the "value added agriculture land use economic (VALUE) zone."

The business expense deduction language under the B&CTL uses the term "the enterprise zone." Amendment 14 would correct the reference to be "the value added agriculture land use economic (VALUE) zone."

#### FISCAL IMPACT

##### Departmental Costs

Once the implementation concerns are resolved, this bill would not significantly impact the department's costs.

##### Tax Revenue Estimate

**The revenue estimate and discussion below do not reflect the amendments proposed by this bill.**

The revenue impact of this measure per zone is projected as follows:

Revenue Impact of the Proposal (Per Zone) Income/Taxable Years Beginning On or After 1/1/2001 (In Millions)			
	2001-2	2002-3	2003-4
Revenue Impact	Negligible	Negligible	(\$0.5)

This analysis does not account for changes in employment, personal income, or gross state product that could result from this measure.

##### Tax Revenue Discussion

Revenue losses under the Personal Income Tax Law and the Bank and Corporation Tax law would depend on the number of VALUE zones designated and the number and apportioned tax liabilities of businesses that could take advantage of the various state tax incentives offered by the bill.

It is not known in advance how many zones would be established, the time frame, and eligible costs for the tax incentives. The average revenue loss attributed to existing enterprise zones in the state is approximately \$1 million per year per zone (reached after a number of years). The proposed zones in this bill have fewer tax incentives and would probably be more depressed economically. Estimates above, therefore, are general orders of magnitude for each zone authorized by January 1, 2001

#### BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1977  
As Introduced February 18, 2000

AMENDMENT 1

On page 3, line 4 after "and county", insert:

with an eligible area

AMENDMENT 2

On page 4, between lines 36 and 37, insert:

(f) No more than 5 value added agriculture land use economic zones shall be designated at any one time pursuant to this chapter. Upon the expiration or termination of a designation, the agency is authorized to designate another value added agriculture land use economic zone to maintain a total of 5 value added agriculture land use economic zones.

7091. (a) In the case of any value added agriculture land use economic (VALUE) zone, a city or county, or city and county, may propose that the VALUE zone be expanded by 15 percent to include definitive boundaries that are contiguous to the VALUE zone. The agency may approve that expansion based upon the criterion specified in subdivision (b) of Section 7090.

(b) A VALUE zone that is located in the unincorporated area of a county may propose to use eligible expansion allotment to expand into an adjacent city or cities pursuant to this section if the agency finds that the governing body of the local agency with jurisdiction over the existing VALUE zone and the governing body of the local agency with jurisdiction over the proposed expansion area each approve the expansion by adoption of an ordinance or resolution.

(c)(1) Except as otherwise provided in paragraph (2), in no event shall a VALUE zone be permitted to expand more than 15 percent in size from its size on the date of original designation.

(2) If a VALUE zone, on the date of original designation, is no greater than 13 square miles, it may be permitted to expand up to 20 percent in size from its size on the date of original designation.

7092(a) The agency may audit the program of any jurisdiction in any designated value added agriculture land use economic zone at any time during the duration of the designation, as appropriate, or at least every five years from the date of designation or the operative date of this section, whichever is the latest. The matters to be examined in the course of an audit shall include an examination of the progress made by the zone toward meeting the goals, objectives, and commitments set forth in its original application and the agency's memorandum of understanding with the zone.

(b) The agency shall, for each audit, determine a result of superior, pass, or fail in accordance with subdivision (c). The results of each audit shall be based upon the success of the zone in making substantial and sustained efforts since the later of its designation or last audit to meet the standards, criteria, and conditions contained in the application. In each audit, the agency shall focus upon the zone's use of the marketing plan, local incentives, financing programs, job development, and program management as described in the application. The agency shall also evaluate the vouchering plan, zone staff levels, zone budget, and elements unique to each application.

(c) For purposes of subdivision (b), an audit determination of superior, pass, or fail shall be made in accordance with the following:

(1) A zone will be determined to be superior if each jurisdiction comprising the zone does all of the following:

(A) Meets 100 percent of its goals, objectives, and commitments as defined in its application or most recent audit, and as determined by the agency in consultation with the zone. An equivalent or similar commitment may be substituted for an existing commitment of a zone if it is determined by the agency that an original commitment was not realistically practical or is no longer relevant.

(B) Demonstrates that it has reviewed and updated its goals, objectives, and commitments as defined in its original application or most recent audit.

(C) Identifies to the agency's satisfaction that it has incorporated economic development commitments in addition to those commitments previously made in its application.

(2) (A) A zone will be determined to be passing if each jurisdiction comprising the zone meets or exceeds 75 percent of its goals, objectives, or commitments as defined in its original application or audit, and as determined by the agency in consultation with the zone. An equivalent or similar commitment may be substituted for an existing commitment of a zone if it is determined by the agency that an original commitment was not realistically practical or is no longer relevant.

(B) Any zone that is determined to be passing may appeal in writing to the agency for a determination of superior. Only one appeal may be filed pursuant to this subparagraph with respect to a determination by the agency, and may be filed no later than 30 days after the zone's receipt of the determination to which the appeal pertains. The agency shall respond in writing to any appeal that is properly filed pursuant to this subparagraph within 60 days of the date of that filing.

(3) (A) A zone will be determined to be failing if any jurisdiction comprising the zone fails to meet or exceed 75 percent of its goals, objectives, or commitments as defined in its original application or audit, and as determined by the agency in consultation with the zone. An equivalent or similar commitment may be substituted for an existing commitment of a zone if it is determined by the agency that an original commitment was not realistically practical or is no longer relevant.

(B) Any zone that is determined to be failing shall enter into a written agreement with the agency that specifies those items that the zone is required to remedy or improve. Failure of the zone and the agency to negotiate and enter into a written agreement as so described within 60 days of the last day upon which the agency is required to deliver a response letter pursuant to subparagraph (C) shall result in the dedesignation of the zone on January 1 immediately following the agency's written notice of dedesignation to the zone. A written agreement entered into pursuant to this subparagraph shall be for a six-month period. If, upon the expiration of the agreement, the agency determines that the zone has not

met or implemented at least 75 percent of the conditions set forth in the agreement, the agency shall, after immediately providing written notification to each jurisdiction comprising the zone that the zone is to be dedesignated, dedesignate the zone effective on the first day of the month next following the date upon which the agreement expired. If, upon expiration of the agreement, the agency determines that the zone has met or implemented at least 75 percent of the conditions set forth in the agreement, the agency shall do either of the following:

(i) Allow the zone an additional year, or a longer period in the agency's discretion, to meet or implement those conditions in their entirety.

(ii) Pursuant to written notice provided immediately to each jurisdiction that comprises the zone that the zone is to be dedesignated, dedesignate the zone effective on January 1 immediately following the date of the agency's written notification of dedesignation to those jurisdictions. Any business, located within any jurisdiction that comprises a zone that has been dedesignated, that has elected to avail itself of any state tax incentive specifically applicable to a zone for any taxable or income year beginning prior to the dedesignation of the zone may, to the extent the business is otherwise still eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the zone. However, any business, located within any jurisdiction that comprises a zone that has been dedesignated, that has not availed itself of any state tax incentive in the manner described in the preceding sentence may not, after dedesignation of the zone, avail itself of any state incentive specifically applicable to a zone.

(d) (1) For purposes of this paragraph, "dedesignation" means that a zone is no longer a zone for purposes of Section 7090.

(2) Upon notification by the agency of the dedesignation of a zone and the end of the appeal period with respect to that dedesignation, the agency shall initiate an application process for a new designation as provided in Section 7090.

7093. (a) The agency shall dedesignate a zone on the first day of the month immediately following the date upon which the agency has received from each jurisdiction comprising the zone a resolution, adopted by the governing body of that jurisdiction, requesting the dedesignation of the zone. Upon the dedesignation of a zone pursuant to this paragraph, the agency shall initiate an application process for a new designation as provided in Section 7090.

(b) The agency shall exclude from a zone that portion of that zone that is located within a jurisdiction on the first day of the month immediately following the date upon which the agency receives from that jurisdiction a resolution, adopted by the governing body of that jurisdiction, requesting that exclusion. Any jurisdiction that provides notice to the agency pursuant to this paragraph shall concurrently provide a copy of that notice to all other jurisdictions that comprise the affected zone.

(c) Any business, located within any jurisdiction that comprises a zone that has been dedesignated or within a jurisdiction that has excluded itself from a zone, that has elected to avail itself of any state tax incentive specifically applicable to a zone for any taxable or income year beginning prior to the dedesignation of the zone or the exclusion of a jurisdiction comprising the zone may, to the extent the business is still otherwise eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the zone. However, any business, located within any jurisdiction that comprises a zone that has been dedesignated or within a jurisdiction that has excluded itself from a zone, that has not availed itself of any state tax

incentive in the manner described in the preceding sentence may not, after dedesignation of the zone, avail itself of any state incentive specifically applicable to a zone.

(d) For purposes of this section, "dedesignation" is defined as set forth in paragraph (1) of subdivision (d) of Section 7092.

AMENDMENT 3

On pages 4 and 5, amend SEC. 3 of the bill to read as follows:

SEC. 3. Section 17053.44 is added to the Revenue and Taxation Code, to read:

17053.44. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2013, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the sales or use tax paid or incurred by a qualified taxpayer during the taxable year in connection with the purchase of qualified property, but only to the extent that the cost of the qualified property does not exceed ~~a value of~~ one million dollars (\$1,000,000).

(b) For purposes of this section:

~~(1) "Taxpayer" means a new business, or expansion of an existing business, located within a value added agriculture land use economic zone established pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code, that manufactures agriculture value added products falling within sub sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS). "Qualified taxpayer" means a person that meets both of the following requirements:~~

~~(A) Is engaged in a trade or business within a value added agriculture land use economic (VALUE) zone designated pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.~~

~~(B) Is engaged in those lines of business described in sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS).~~

~~(2) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this paragraph, the term "pass-through entity" means any partnership or S corporation.~~

~~(2)~~ (3) "Qualified property" means:

~~(A) Machinery, machinery parts, and equipment purchased for exclusive use within the value added agriculture land use economic zone.~~

~~(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed one million dollars (\$1,000,000).~~

~~(C) The qualified property is used by the taxpayer exclusively in a value added agriculture land use economic zone.~~

~~(D) The qualified property is purchased and placed in service before the date the value added agriculture land use economic zone designation expires, is no longer binding, or becomes inoperative.~~

(c) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit is exhausted.

~~(d) This section shall remain in effect only until December 1, 2013, and as of that date is repealed.~~ (1) The amount of the credit otherwise allowed under this section and Section 17053.76, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the value added agriculture land use economic zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the value added agriculture land use economic zone. For this purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the value added agriculture land use economic zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the value added agriculture land use economic zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the value added agriculture land use economic zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the value added agriculture land use economic zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (c).

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer's purchase of qualified property.

(f) This section shall remain in effect only until December 1, 2013, and as of that date is repealed.

(g) If the qualified property is disposed of or no longer used by the taxpayer in the value added agriculture land use economic zone, at any time before the close of the second taxable year beginning after the property is placed in service, the amount of the credit previously claimed, with respect to that property, shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse.

AMENDMENT 4

On page 5, between lines 27 and 28, insert:

SEC.\_\_\_\_. Section 17053.76 is added to the Revenue and Taxation Code, to read:

17053.76. (a) There shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer who employs a qualified employee in a value added agriculture land use economic zone during the taxable year. The credit shall be equal to the sum of each of the following:

- (1) Fifty percent of qualified wages in the first year of employment.
- (2) Forty percent of qualified wages in the second year of employment.
- (3) Thirty percent of qualified wages in the third year of employment.
- (4) Twenty percent of qualified wages in the fourth year of employment.
- (5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) That portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the value added agriculture land use economic zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the value added agriculture land use economic zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the value added agriculture land use economic zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the value added agriculture land use economic zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to a value added agriculture land use economic zone enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in a value added agriculture land use economic zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as a value added agriculture land use economic zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is

receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person that meets both of the following requirements:

(i) Is engaged in a trade or business within a value added agriculture land use economic (VALUE) zone designated pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS).

(B) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this paragraph, the term "pass-through entity" means any partnership or S corporation.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Act administrative entity or the local county GAIN office or social services agency, as appropriate, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d)(1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a), is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, "value added agriculture land use economic zone" means an area designated as a value added agriculture land use economic zone pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17, 17053.46 and 17053.74 claimed for the same employee. The credit shall also be reduced by the credit allowed for federal purposes under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding eight taxable years, or until the credit is exhausted, whichever occurs first. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the value added agriculture land use economic zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the value added agriculture land use economic zone. For this purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further

apportioned to the value added agriculture land use economic zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the value added agriculture land use economic zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the value added agriculture land use economic zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the value added agriculture land use economic zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

SEC.\_\_\_\_. Section 17053.77 is added to the Revenue and Taxation Code, to read:

17053.77 (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount equal to five percent of the qualified wages received by the taxpayer during the taxable year.

(b) For purposes of this section:

(1) "Qualified employee" means a taxpayer who meets both of the following:

(A) Is described in clauses (i) and (ii) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 17053.76.

(B) Is not an employee of the federal government or of this state or of any political subdivision of this state.

(2) (A) "Qualified wages" means "wages," as defined in subsection (b) of Section 3306 of the Internal Revenue Code, attributable to services performed for an employer with respect to whom the taxpayer is a qualified employee in an amount that does not exceed one and one-half times the dollar limitation specified in that subsection.

(B) "Qualified wages" do not include any compensation received from the federal government or this state or any political subdivision of this state.

(C) "Qualified wages" do not include any wages received on or after the date the value added agriculture land use economic zone designation expires, is no longer binding, or becomes inoperative.

(3) "Value added agriculture land use economic zone" means any area designated as a value added agriculture land use economic zone pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.

(c) For each dollar of income received by the taxpayer in excess of qualified wages, as defined in this section, the credit shall be reduced by nine cents (\$0.09).

(d) The amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's income attributable to employment within the value added agriculture land use economic

zone as if that income represented all of the income of the taxpayer subject to tax under this part.

AMENDMENT 5

On page 5, line 31, strikeout "2000" and insert:

2001

AMENDMENT 6

On page 6, line 20, strikeout the term "an existing" and insert:

a

AMENDMENT 7

On page 7, lines 21 and 22, strikeout "new business or expansion of an existing" and insert:

trade or

AMENDMENT 8

On page 8, line 15, strikeout "targeted tax area" and insert:

value added agriculture land use economic zone

AMENDMENT 9

On page 16, strikeout lines 6 to 13 inclusive, and insert:

Section 17267.1 includes a person that is engaged in a trade or business within a value added agriculture land use economic zone designated pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code, and is engaged in those lines of business described in sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS). For purposes of this subdivision, all of the following shall apply:

AMENDMENT 10

On page 18, amend SEC. 8 of the bill to read as follows:

SEC. 8. Section 24347.2 is added to the Revenue and Taxation Code, to read:

24347.2. (a) For each income year beginning on or after January 1, 2001, and before January 1, 2013, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the sales or use tax paid or incurred by the qualified taxpayer during the income year in connection with the purchase of qualified property to the extent that the cost of the qualified property does not exceed ~~a value of~~ one million dollars (\$1,000,000).

(b) For purposes of this section:

~~(1) "Taxpayer" means a new business, or expansion of an existing business, located within a value added agriculture land use economic zone established pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code, that manufactures agriculture value added products falling within sub-sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS). "Qualified taxpayer" means a person or entity that meets both of the following:~~

~~(A) Is engaged in a trade or business within a value added agriculture land use economic (VALUE) zone designated pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.~~

~~(B) Is engaged in those lines of business described in sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS).~~

~~(2) "Qualified property" means:~~

~~(A) Machinery, machinery parts, and equipment purchased for exclusive use within the value added agriculture land use economic zone.~~

~~(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed one million dollars (\$1,000,000).~~

~~(C) The qualified property is used by the taxpayer exclusively in a value added agriculture land use economic zone.~~

~~(D) The qualified property is purchased and placed in service before the date the value added agriculture land use economic zone designation expires, is no longer binding, or becomes inoperative.~~

~~(c) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit is exhausted.~~

~~(d) This section shall remain in effect only until December 1, 2013, and as of that date is repealed.~~ (1) The amount of the credit otherwise allowed under this section and Section 23622.9, including any credit carryover from prior years, that may reduce the "tax" for the income year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the value added agriculture land use economic zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the value added agriculture land use economic zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the value added agriculture land use economic zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the value added agriculture land use economic zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the value added agriculture land use economic zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the value added agriculture land use economic zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding income years, as if it were an amount exceeding the "tax" for the income year, as provided in subdivision (c).

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer's purchase of qualified property.

(f) This section shall remain in effect only until December 1, 2013, and as of that date is repealed.

#### AMENDMENT 11

On page 18, between lines 2 and 3, insert:

SEC.\_\_\_\_. Section 23622.9 is added to the Revenue and Taxation Code, to read:

23622.9 (a) There shall be allowed a credit against the "tax" (as defined in Section 23036) to a taxpayer who employs a qualified employee in a value added agriculture land use economic zone during the income year. The credit shall be equal to the sum of each of the following:

- (1) Fifty percent of qualified wages in the first year of employment.
- (2) Forty percent of qualified wages in the second year of employment.
- (3) Thirty percent of qualified wages in the third year of employment.
- (4) Twenty percent of qualified wages in the fourth year of employment.
- (5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

- (1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the taxpayer during the income year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per income year.

(C) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the value added agriculture land use economic zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the value added agriculture land use economic zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the value added agriculture land use economic zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the value added agriculture land use economic zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the income year are directly related to a value added agriculture land use economic zone enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the income year in a value added agriculture land use economic zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as a value added agriculture land use economic zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Qualified taxpayer" means a corporation that meets both of the following:

(A) Is engaged in a trade or business within a value added agriculture land use economic (VALUE) zone designated pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.

(B) Is engaged in those lines of business described in sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS).

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Act administrative entity or the local county GAIN office or social services agency, as appropriate, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) For purposes of this section, "value added agriculture land use economic zone" means an area designated as a value added agriculture land use economic zone pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.

(g) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625 and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "tax" for the income year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the eight succeeding income years, or until the credit is exhausted, whichever occurs first. The credit shall be applied first to the earliest income years possible.

(j) (1) The amount of the credit otherwise allowed under this section, including any credit carryover from prior years, that may reduce the "tax" for the income year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the value added agriculture land use economic zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the value added agriculture land use economic zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17

(commencing with Section 25101) of Part 11. That business income shall be further apportioned to the value added agriculture land use economic zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the value added agriculture land use economic zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the value added agriculture land use economic zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the value added agriculture land use economic zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding income years, as if it were an amount exceeding the "tax" for the income year, as provided in subdivision (i).

#### AMENDMENT 12

On page 18, line 35, after "(a)" strikeout "A" and insert:

For each income year beginning on or after January 1, 2001, and before January 1, 2013, a

#### AMENDMENT 13

On page 19, lines 18 and 19, strikeout "new business, or expansion of an existing", and insert:

trade or

#### AMENDMENT 14

On page 19, line 25, strikeout "enterprise" and insert:

value added agriculture land use economic (VALUE)

#### AMENDMENT 15

On page 20, strikeout lines 26 to 32 inclusive and insert:

(d) For purposes of this section "Qualified taxpayer" means a corporation that meets both of the following:

(A) Is engaged in a trade or business within a value added agriculture land use economic (VALUE) zone designated pursuant to Chapter 12.9 (commencing with Section 7090) of Division 7 of Title 1 of the Government Code.

(B) Is engaged in those lines of business described in sectors 111 to 115, inclusive, 311 to 339, inclusive, or 541710 of the North American Industry Classification System (NAICS).